

NO. CR 08-0222-WHA
CR 08-0236 MMCTO: Judge Alsup + Judge Chesney
c/o: Clerk of the Court

FROM: Luke Brugnara

Dear Judge Alsup and Judge Chesney:

This letter shall affirm that I request to have my motion for reconsideration regarding withdrawal of the plea (Judge Alsup), motion for evidencing tax loss hearings (Judge Alsup), motion to be released from custody (Judge Alsup + Judge Chesney), declarations from Victoria Brugnara (Judge Alsup + Judge Chesney) and declaration-supplemental from Luke Brugnara and reply to US Attorneys and Probation sentencing reports-supplemental (Judge Alsup + Judge Chesney) filed and calendared as soon as possible in my cases. These filings are proper because Brian Metz has been fined because he has refused to file these motions and declarations and because he has not contacted me in weeks despite being paid a substantial sum (\$75K).

These motions are critical to my cases because the declarations-supplemental detail the ineffectiveness of Harris Taback between November 3, 2009 and January 26, 2010. Judge Alsup ruled that the motion to withdraw the

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plea did not detail in any declaration or sworn testimony of Taback's ineffectiveness. I requested prior to that motion being filed for Brian Getz to detail these problems with Taback and I wrote them down on 2 pages for Getz. Getz either forgot or did not include those details which resulted in the denial of the motion. Furthermore Getz did not include my mother's declaration which detailed my severe illness. Additionally I never agreed to a \$1.9M tax loss and, in fact, can evidence a tax loss of \$0. I told Brian to file the motion for evidentiary tax loss hearing so I can show the errors on the US attorney/IRS spreadsheet. Finally, the response to the probation + US attorney presentencing report was void of detailed corrections to errors and misstatements made in those reports; the supplemental reply clearly details the responses to the inaccurate statements... Brian Getz was given the opportunity to file those motions and replies but refused because it will cast light on his deficiencies in their preparation as detailed in Judge Alsup's ruling. As a result, I have no choice but to be pro-pon in both cases.

I am currently housed in a solitary confinement "POD" in the OAKLAND JAIL with 9 murderers out of 15 prisoners. I only get out of my 10x7 cement cell one hour every 2-3 days, so that is only 3 hours a week. I am confined to a cement slab bed with a 1/4" vinyl mat, bedridden because the cell is so small... the murderers scream profanity

and bang on their doors and bang their steel chains into concrete 24/7. I do not believe I should be here. I beg for justice and ask to be released back on "OR" as I was for 2 yrs, pending the outcome of these cases. As you know I made every court date for 2 years in both cases and am "no threat to myself or others" as detailed in the USATTORNEY psychiatric report from Dr. Kessler made part of these cases. I am neither a flight risk, as I ~~have~~ have 4 children in school and live in Sea Cliff, nor a danger so I beg to be released pending the outcome of these cases. My four children have not seen me in 3 months. Rumen 9, Brianna 6, Luke 14, and Vincent 11 are suffering terribly and need their father. My son Luke graduates next Friday and I would like to see him graduate. Most of all I have done nothing to warrant sharing cells with 9 murderers (Muslim, Baker murderer, the guy mutimurderer etc) they all threaten me and scream loudly and bang on their doors so I can't make my call every 3 days, let alone being locked up in the OACUSIDOM for 3 months... As you know the plea agreement, which I am moving to be set aside, calls for release from custody and I was only taken back into custody hours after the motion to withdraw the plea was filed. The US Attorney used the excuse that I helped my mother open a garage door (that was broken and weighs 300 lbs) at Sea Cliff. This occurred 5 weeks prior to the remand and

was never an issue until the motion to withdraw the plea was filed hours before.

For preparation for the tax evidencing hearing I need access to my books and records at 224 Sea Cliff which will take several days as the years are 1998-2003

(7-13 years ago) and the records are voluminous... on a final note I have experienced 4 medical emergencies for breathing problems, and chest pain as well as dizziness since being in solitary lockdown for 3 weeks. I do have a medical history (Kaiser Permanente) of angina and these are terrible conditions for a healthy man, let alone one with compromised health conditions. Moreover, the level of punishment is not commensurate with the alleged violation of the release, which was not deemed an "issue" until the motion to withdraw the plea was filed 5 weeks later.

In closing, I request to be released on "OR" pending the outcome of these cases, or alternatively home confinement. This will allow for the required preparation for the upcoming motions and trials if the motions are granted and will be consistent with the severity of the alleged matters and the fact that I am no threat to myself or others and well situated as a family man in the community.

Very truly,

Rube Brugnara

Kay Brugnara (415) 505-8869